

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MOKO FELICIANO BOB-RAY,

Petitioner,

v.

Case No. 6:17-cv-01469-YY

BRANDON KELLY, Superintendent,
Oregon State Penitentiary,

OPINION AND ORDER

Respondent.

MOSMAN, J.,

On December 18, 2019, Magistrate Judge Youlee Yim You issued her Findings and Recommendation (“F&R”) [ECF 36], recommending that Petitioner’s Petition for Writ of Habeas Corpus [ECF 2] should be denied, and a certificate of appealability should be denied. Petitioner objected [ECF 38], and Respondent filed a response to the objection [ECF 39].

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See*

Thomas v. Arn, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

CONCLUSION

Upon review, I agree with Judge You's recommendation and I ADOPT the F&R [36]. I DENY Petitioner's Petition for Writ of Habeas Corpus [2]. I also deny a certificate of appealability because petitioner has not made a substantial showing of the denial of a constitutional right. *See* 28 U.S.C. § 2253(c)(2). This case is dismissed with prejudice.

IT IS SO ORDERED.

DATED this 22 day of January, 2020.

Michael W. Mosman

MICHAEL W. MOSMAN
United States District Judge